

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 NEWMARK GROUP, INC., G&E
5 ACQUISITION COMPANY, LLC and BGC
REAL ESTATE OF NEVADA, LLC

Case No. 2:15-cv-00531-RFB-EJY

6 Plaintiff,

ORDER

7 v.

8 AVISON YOUNG (CANADA) INC.;
9 AVISON YOUNG (USA) INC.; AVISON
YOUNG-NEVADA, LLC, MARK ROSE,
10 THE NEVADA COMMERCIAL GROUP,
JOHN PINJUV, and JOSEPH KUPIEC; DOES
11 1 through 5; and ROE BUSINESS ENTITIES
6 through 10,

12 Defendants.
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14 Before the Court is Plaintiffs' Motion for Leave to File Reply in Support of Motion to
15 Compel Directed to the AY Defendants, and Certain Exhibits Under Seal. ECF No. 268. No
16 opposition to this Motion was filed by Defendants.

17 As the party seeking to seal a judicial record, Plaintiffs must meet its burden of overcoming
18 the strong presumption in favor of access and public policies favoring disclosure. *Kamakana v. City
19 and Cnty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (holding that those who seek to
20 maintain the secrecy of documents attached to dispositive motions must meet the high threshold of
21 showing that “compelling reasons” support secrecy). “Many courts have applied the compelling
22 reasons standard to . . . temporary restraining orders.” *Ctr. for Auto Safety v. Chrysler Group, LLC*,
23 809 F.3d 1092, 1096 n.2 (9th Cir. 2016) (collecting cases); *see also Selling Source, LLC v. Red River
24 Ventures, LLC*, No. 2:09-cv-01491-JCM-GWF, 2011 WL 1630338, at *5 (finding requests for
25 preliminary injunctive relief should be treated as dispositive motions for purposes of sealing court
26 records) (D. Nev. Apr. 29, 2011). The mere fact that the production of records may lead to a party's
27 embarrassment, incrimination, or exposure to further litigation will not alone compel the court to
28 seal its records. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir.

1 2003). Compelling reasons require a demonstration of something more, such as when court files
2 have become a vehicle for improper purposes, including use of records to gratify private spite,
3 promote public scandal, disseminate libelous statements, or circulate trade secrets. *Nixon v. Warner*
4 *Commc'ns*, 435 U.S. 589, 598 (1978).

5 The Court has considered Plaintiffs' Motion and the documents sought to be sealed. The
6 Court finds Exhibits, 2 through 11, 13 through 19, and 23 contain confidential business
7 information. Therefore, there is compelling reason for granting Plaintiffs' Motion to Seal as to these
8 documents. The Court further finds that Plaintiffs' request to file under seal an unredacted version
9 of Plaintiffs' Reply in Support of Plaintiffs' Motion to Compel Directed to AY Defendants is also
10 proper under the standard summarized above.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Motion for Leave to File Reply in
12 Support of Motion to Compel Directed to the AY Defendants, and Certain Exhibits Under Seal (ECF
13 No. 268) is GRANTED.

14 DATED: March 20, 2020

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17 ELAYNA J. YOUCHAK
18 UNITED STATES MAGISTRATE JUDGE
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